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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,588	07/22/2003	Gary Schlatter	ORA-005	5846

21884 7590 05/14/2007  
WELSH & FLAXMAN LLC  
2000 DUKE STREET, SUITE 100  
ALEXANDRIA, VA 22314

EXAMINER
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SMALLEY, JAMES N

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/623,588

Applicant(s)

SCHLATTER, GARY

Examiner

James N. Smalley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al. US 2004/0217139 in view of Christler US 5,996,191.

Roth '139 teaches a dispensing container with an integrally formed hook and gate which allows the device to be attached an object. The hook and gate members each have respective upwardly extending connecting members, read by the examiner to be the stems of each element as they project outward from the cap top surface (74).

The reference fails to teach a first arcuate portion and second arcuate portion which overlap along a substantial portion of their respective arcs.

Christler '191 teaches a hookless connecting ring formed of resilient plastic, teaching an overlap length "o" along arcuate ends of the ring, and furthermore disclosing in column 3, lines 59-66 that the length of the overlap "o" about four times the width of the material. Although disclosed for keyrings, Examiner notes the structure is essentially the same as that of Roth '139, in that a closed loop is formed by the rings, and the resilient distortion of the ring arms relative to each other allows a connection to form between the ring and object, for temporary attachment. Thus it is the Examiner's position that one of ordinary skill would look to Christler '191 as a potential modification for the hook and gate of Roth '139.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gates taught by Roth '139, forming them to overlap along a length of arcuate portions as taught by Christler '191, motivated by the benefit of providing a resilient closed loop connection equally capable of securing the ring to an object. Furthermore, Examiner notes that by forming this overlap four

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times the width of the material width, the length of the overlap would appear to comprise a "substantial overlap," evidenced by the substantially thicker gauge of the ring of Roth '139 than that of Christler '191.

With the above modification, the rings would appear to be less than 2 mm apart from each other, based on an average sized keyring assuming a diameter of approximately 1 inch. Furthermore, by being disposed further outwardly from the center, outer ring (14) has a greater radial length than inner ring segment (16). Furthermore, regarding claim 8, the fact that the entirety of the hook comprises a half-circumference, in that it extends from a first upwardly extending member about the full arc to the second upwardly extending member, implies the total arc has a length of 180 degrees. It is the Examiner's position that the overlap "o" taught by Christler '191, when applied to Roth '139 will ultimately being longer than the overlap shown in Christler '191 by virtue of the fact that the hook and gate of Roth '139 appear to comprise a thicker gauge, and thus the arcuate lengths would appear to be at least 120 degrees. Lastly, Examiner notes the distal ends of the rings in both references are tapered.

Regarding claims 4, 7, 12 and 14, Examiner notes figure 3, whereby it can be seen the first upwardly extending portion (located below 24) extends higher than the second upwardly extending portion (located below (42).

### ***Response to Arguments***

3. Applicant's arguments filed 09 February 2007 have been fully considered but they are not persuasive.

**Applicants arguments are drawn to the fact that Roth '139 claims priority to a design patent and thus one of ordinary skill would only be taught the design features.**

Examiner notes figures 3 and 4 specifically of the Roth Design Patent No. D485,757 S, which clearly show a gap, as well as an overlap between the two gate members of the invention. Thus, one of ordinary skill would understand from the drawings the teaching of a clip disposed on the cap. As such, the modification uses the teaching of Christler '191 to provide an overlap along a substantial portion of the arc of the gate members for a more secure connection. It appears the Roth patent '139 only adds new

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matter drawn to the container and the connection between the cap and the container, as shown in figures 3-13 therein.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on Monday - Friday 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jns

  
5/11/2007



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